

U.S. District Court
for the District of New Mexico (Albuquerque)

TERMED

CRIMINAL DOCKET FOR CASE #: 06-M -130-ALL

USA v. Leyva, et al
Dkt# in other court: None

Filed: 03/03/06

Case Assigned to: Magistrate Judge Robert Hayes Scott

BENJAMIN LEYVA (1)
defendant
[term 03/08/06]

Joseph W. Gandert, Esq.
[term 03/08/06]
FTS 346-2494
(505) 346-2489
[COR LD NTC pda]
Federal Public Defender's
Office
111 Lomas, Blvd, NW
#501
Albuquerque, NM 87102
(505) 346-2489
FTS 346-2494

Pending Counts:

NONE

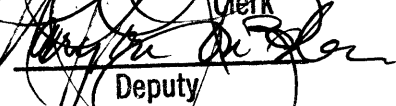
Terminated Counts:

NONE

Complaints:

NONE

=====

CERTIFIED a True Copy of the
original filed in my office.
Clerk
by 
Deputy

Proceedings include all events.
1:06m 130-ALL USA v. Leyva, et al

TERMED

Case Assigned to: Magistrate Judge Robert Hayes Scott

IRBIN LUNA ORTIZ (2)
defendant
[term 03/08/06]

Kenneth A. Gleria, Esq.
[term 03/08/06]
FTS 242-5188
[COR LD NTC cja]
1008 5th NW
Albuquerque, NM 87102
(505) 243-7843
FTS 242-5188

Pending Counts:

NONE

Terminated Counts:

NONE

Complaints:

NONE

U. S. Attorneys:

NONE

Proceedings include all events.
1:06m 130-ALL USA v. Leyva, et al

TERMED

- 3/3/06 1 RULE 40 Documents received from Middle District of Alabama as to Benjamin Leyva, Irbin Luna Ortiz; complaint and warrants (mk) [Entry date 03/03/06]
- 3/3/06 2 CLERK'S MINUTES: before Magistrate Judge Robert H. Scott initial/first appearance of Benjamin Leyva and Irbin Luna Ortiz on Criminal Complaint from the Middle District of Alabama; detention/identity hearing set for 3/6/06 at 9:30 am; defts held in custody of USMS Tape #: FTR-Hondo @ 11:16 am Interpreter: R. Bustos* (kd) [Entry date 03/03/06]
- 3/3/06 3 ORDER of Temporary Detention as to deft Benjamin Leyva by Magistrate Judge Robert H. Scott pending hearing (cc: all counsel)* (kd) [Entry date 03/03/06]
- 3/3/06 4 ORDER by Magistrate Judge Robert H. Scott for deft Benjamin Leyva appointing atty Joseph W. Gandert (cc: all counsel)* (kd) [Entry date 03/03/06]
- 3/3/06 5 ORDER of Temporary Detention as to deft Irbin Ortiz by Magistrate Judge Robert H. Scott pending hearing (cc: all counsel) * (kd) [Entry date 03/03/06]
- 3/3/06 6 CJA Form 20 Copy 4 (Appointment of Counsel) for defendant Irbin Luna Ortiz appointing Kenneth A. Gleria (mlg) [Entry date 03/06/06]
- 3/6/06 7 COMMITMENT to District of Alabama for Benjamin Leyva by Magistrate Judge W. D. Schneider (ma) [Entry date 03/07/06]
- 3/6/06 8 COMMITMENT to District of Alabama for Irbin Luna Ortiz by Magistrate Judge W. D. Schneider (ma) [Entry date 03/07/06]
- 3/6/06 9 WAIVER of identity hearing by Benjamin Leyva (mlg) [Entry date 03/08/06]
- 3/6/06 10 WAIVER of identity hearing by Irbin Luna Ortiz (mlg) [Entry date 03/08/06]
- 3/6/06 11 CLERK'S MINUTES: before Magistrate Judge W. D. Schneider both defts waive identity hearing but request preliminary hearing in the prosecuting district; both defts remain in custody for commitment to the Middle District of Alabama Tape #: FTR-Gila @ 9:53 am Interpreter: R. Bustos * (mlg) [Entry date 03/08/06]
- 3/8/06 -- LETTER to Clerk, USDC Middle District of Alabama transmitting original pleadings (mlg) [Entry date 03/08/06]

HEARINGS BEFORE: US MAGISTRATE JUDGE W. DANIEL SCHNEIDER

KIND OF HEARING **IDENTITY/DETENTION HEARING ON WARRANT FROM
MIDDLE DISTRICT OF ALABAMA**

DEFENDANTS:

BENJAMIN LEYVA-01*
IRBIN LUNA ORTIZ-02*

CASE NO. 06 M 130

DATE: March 6, 2006

NAMES AND TITLES OF OTHER PARTICIPANTS:

Rhonda Backinoff AUSA

01-Joe Gandert -AFPD
02-Kenneth Gleria -CJA

Andrew Selph PTS/PROB

***R Bustos Interpreter**

TAPE NO. SPEAKER

FTR-GILA
@ 9:53 AM
Ct
Deft-1
Deft-2
Govt

TAPE NO. SPEAKER

HEARING RESULTS/FINDINGS:

- ☒ Defendants waives Identity hearing but request Preliminary Hearing in the prosecuting district
- ☒ Defendants stipulate to detention at this time.
- ☐ Court finds probable cause.
- ☒ Defendant(s) in custody
- ☐ Conditions of Release set at:
- ☒ Other: Defendants are remanded to custody of USMS for removal to the Middle District of Alabama

//

UNITED STATES DISTRICT COURT

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE DISTRICT OF NEW MEXICO

NEW MEXICO

UNITED STATES OF AMERICA

MAR - 6 2006

WAIVER OF RULE 5 & 5.1 HEARINGS

(Complaint/Indictment)

v.

MATTHEW J. DYKMAN

CLERK CASE NUMBER: 06-M-130

Irvin Luna-Ortiz

Defendant

CHARGING DISTRICTS

CASE NUMBER: 2:06 mj 24-DRB

I understand that charges are pending in the Middle District of Alabama

alleging violation of 18 U.S.C. § 1201(a)(1) and that I have been arrested in this district and
(Title and Section)

taken before a judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) a preliminary hearing (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) Request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

☒ identity hearing

☐ preliminary hearing

☒ identity hearing but request a preliminary hearing be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

Irvin Luna Ortiz
Defendant

3-6-06

Date

[Signature]
Defense Counsel

10

FILED
UNITED STATES DISTRICT COURT
 UNITED STATES DISTRICT COURT
 ALBUQUERQUE, NEW MEXICO

MAR 10 2006

NEW MEXICO

UNITED STATES OF AMERICA

MATTHEW J. DYKMAN

CLERK

WAIVER OF RULE 5 & 5.1 HEARINGS

(Complaint/Indictment)

V.

Benjamin Leyra

Defendant

CASE NUMBER: 06M130

CHARGING DISTRICTS

CASE NUMBER: 2:06mj 24-DRB

I understand that charges are pending in the

Middle

District of

Albuquerque

alleging violation of

18 U.S.C. 1201(a)(1)Kidnaping

(Title and Section)

and that I have been arrested in this district and

taken before a judge, who has informed me of the charge(s) and my rights to:

- (1) retain counsel or request the assignment of counsel if I am unable to retain counsel;
- (2) an identity hearing to determine whether I am the person named in the charges;
- (3) a preliminary hearing (unless an indictment has been returned or information filed) to determine whether there is probable cause to believe an offense has been committed by me, the hearing to be held in this district or the district of prosecution; and
- (4) Request transfer of the proceedings to this district under Rule 20, Fed. R. Crim. P., in order to plead guilty.

I HEREBY WAIVE (GIVE UP) MY RIGHT TO A(N):

- () identity hearing
- () preliminary hearing
- (☒) identity hearing but request a preliminary hearing be held in the prosecuting district and, therefore, consent to the issuance of an order requiring my appearance in the prosecuting district where the charges are pending against me.

March 6, 2006

Date

BENJAMIN LEYRA

Defendant

Defense Counsel

United States District Court
District of New Mexico

Document Verification

Case Title: USA v. Leyva, et al.

Case Number: 06m 00130

Office:

Document Information

Number: 8

Description: COMMITMENT to District of Alabama for Irbin Luna Ortiz by Magistrate Judge W. D. Schneider

Size: 1 page (10k)

Date Received: 03/06/2006

Date Filed: 03/06/2006

Date Entered On Docket: 03/07/2006

Court Digital Signature

[View History](#)

5e cc 84 8f a1 18 1f ba 49 3d b0 3f ce 7b 32 ec a9 fa 5b 8a e6 ae 52 1c f6 48 1f 53 78 9d 74 dc 00 2e
8c a4 08 65 5e 5d 41 51 14 19 e4 78 09 e7 a9 66 17 f0 e3 da da b3 38 f4 6e 86 04 4c de 6f bd 2b 2e
7f 87 1d d9 a0 cb bd 48 0d 01 6a a7 18 19 22 22 92 0c 7c 6a cf 17 9b 74 fb 1d 3b fb b9 28 7b 16 b4
51 74 fb e3 07 62 d8 f5 ef 99 2e 2c fc 7e 52 5e 63 97 79 ab 97 5c f5 53 56 41 8d 16

Filer Information

Submitted By: Mark Kokesh

Comments: ORDER by Magistrate Judge W. Daniel Schneider commitment to Middle District of Alabama as to Irbin Luna Ortiz

Digital Signature: The Court's digital signature is a verifiable mathematical computation unique to this document and the Court's private encryption key. This signature assures that any change to the document can be detected.

Verification: This form is verification of the status of the document identified above as of *Wednesday, March 8, 2006*. If this form is attached to the document identified above, it serves as an endorsed copy of the document.

Note: Any date shown above is current as of the date of this verification. Users are urged to review the official court docket for a specific event to confirm information, such as entered on docket date for purposes of appeal. Any element of information on this form, except for the digital signature and the received date, is subject to change as changes may be entered on the Court's official docket.

United States District Court

District of New Mexico

UNITED STATES OF AMERICA

vs.

IRBIN LUNA ORTIZ

COMMITMENT TO ANOTHER
DISTRICT

DOCKET NUMBER		MAGISTRATE JUDGE CASE NUMBER	
District of Arrest	District of Offense	District of Arrest	District of Offense
		06M130	2:06mj24-DRB

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☐ Indictment
 ☐ Information
 ☒ Complaint
 ☐ Other (specify)

charging a violation of **18 U.S.C. § 1201(a)(1)**

DISTRICT OF OFFENSE Middle District of Alabama

DESCRIPTION OF CHARGES Kidnaping

CURRENT BOND STATUS:

☐ Bail fixed at _____ and conditions were not met
☐ Government moved for detention and defendant detained after hearing in District of Arrest
☒ Government moved for detention and defendant detained pending detention hearing in District of
☐ Offense
 Other (specify) _____

Representation: ☐ Retained Own Counsel ☒ Federal Defender Organization ☐ CJA Attorney ☐ None

Interpreter Required? ☐ No ☒ Yes Language: Spanish

TO: THE UNITED STATES MARSHAL

District of New Mexico

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

March 6, 2006

Date

/s/ W Daniel Schneider, U.S. Magistrate Judge

United States Judge or Magistrate Judge

RETURN**This commitment was received and executed as follows:**

DATE COMMITMENT ORDER RECEIVED		PLACE OF COMMITMENT		DATE DEFENDANT COMMITTED
DATE	UNITED STATES MARSHAL	(BY) DEPUTY MARSHAL		

**United States District Court
District of New Mexico**

Document Verification

Case Title: USA v. Leyva, et al.

Case Number: 06m 00130

Office:

Document Information

Number: 7

Description: COMMITMENT to District of Alabama for Benjamin Leyva by Magistrate Judge W. D. Schneider

Size: 1 page (10k)

Date Received: 03/06/2006
04:51:39 PM

Date Filed: 03/06/2006

Date Entered On Docket: 03/07/2006

Court Digital Signature

[View History](#)

64 8f 2c 93 84 b4 57 26 0e ce 47 b9 36 42 db aa 9e ee 4c 24 6a 8b e6 76 e5 09 81 55 a8 6c fd bd 4b
37 8a 36 b1 30 94 5d 72 ca aa ce 9e 58 ba 33 bf 20 5f 8c 00 75 54 71 3a 5f c2 10 3d 81 4e cc fb 7a
9e 42 d8 cb 28 fc 88 5e 65 2a 7e e3 f0 01 c6 9f cb e5 0f 0d 6f 56 bb 02 4b 75 06 18 c1 6d fd b6 08
7d ae 67 24 6c de b7 34 c2 9e 5e d4 b5 a6 73 65 62 f0 fd 0e 03 67 92 56 cd 20 71 42 11

Filer Information

Submitted By: Mark Kokesh

Comments: ORDER by Magistrate Judge W. Daniel Schneider commitment to Middle District of Alabama as to Benjamin Leyva

Digital Signature: The Court's digital signature is a verifiable mathematical computation unique to this document and the Court's private encryption key. This signature assures that any change to the document can be detected.

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United States District Court

District of New Mexico

UNITED STATES OF AMERICA

vs.

BENJAMIN LEYVA

COMMITMENT TO ANOTHER
DISTRICT

DOCKET NUMBER		MAGISTRATE JUDGE CASE NUMBER	
District of Arrest	District of Offense	District of Arrest	District of Offense
		06M130	2:06mj24-DRB

CHARGES AGAINST THE DEFENDANT ARE BASED UPON AN

☐ Indictment
 ☐ Information
 ☒ Complaint
 ☐ Other (specify)

charging a violation of **18 U.S.C. § 1201(a)(1)**

DISTRICT OF OFFENSE Middle District of Alabama

DESCRIPTION OF CHARGES Kidnaping

CURRENT BOND STATUS:

☐ Bail fixed at _____ and conditions were not met
☐ Government moved for detention and defendant detained after hearing in District of Arrest
☒ Government moved for detention and defendant detained pending detention hearing in District of
☐ Offense
 Other (specify) _____

Representation:
☐ Retained Own Counsel
☒ Federal Defender Organization
☐ CJA Attorney
☐ None

Interpreter Required?
☐ No
☒ Yes
 Language: Spanish

District of New Mexico

TO: THE UNITED STATES MARSHAL

You are hereby commanded to take custody of the above named defendant and to transport that defendant with a certified copy of this commitment forthwith to the district of offense as specified above and there deliver the defendant to the United States Marshal for that District or to some other officer authorized to receive the defendant.

 March 6, 2006 /s/ W Daniel Schneider, U.S. Magistrate Judge
 Date United States Judge or Magistrate Judge

RETURN

This commitment was received and executed as follows:

DATE COMMITMENT ORDER RECEIVED		PLACE OF COMMITMENT		DATE DEFENDANT COMMITTED
DATE	UNITED STATES MARSHAL	(BY) DEPUTY MARSHAL		

1. CIR./DIST./DIV. NMX Ortiz, Irbin .a		VOUCHER NUMBER	
3. MAG. DKT./DEF. NUMBER 1:06-000130-002	4. DIST. DKT./DEF. NUMBER	5. APPEALS DKT./DEF. NUMBER	6. OTHER DKT. NUMBER
7. IN CASE/MATTER OF (Case Name) U.S. v. Ortiz	8. PAYMENT CATEGORY Felony	9. TYPE PERSON REPRESENTED Adult Defendant	10. REPRESENTATION TYPE (See Instructions) Criminal Case

11. OFFENSE(S) CHARGED (Cite U.S. Code, Title & Section) If more than one offense, list (up to five) major offenses charged, according to severity of offense.
 1) 18 1201.F -- KIDNAPPING

12. ATTORNEY'S NAME (First Name, M.I., Last Name, including any suffix) AND MAILING ADDRESS GLERIA, KENNETH A. 1008 Fifth St. NW ALBUQUERQUE NM 87102 Telephone Number: (505) 243-7843	13. COURT ORDER <input checked="" type="checkbox"/> O Appointing Counsel <input type="checkbox"/> C Co-Counsel <input type="checkbox"/> F Subs For Federal Defender <input type="checkbox"/> R Subs For Retained Attorney <input type="checkbox"/> P Subs For Panel Attorney <input type="checkbox"/> Y Standby Counsel Prior Attorney's Name: _____ Appointment Date: _____ <input type="checkbox"/> Because the above-named person represented has testified under oath or has otherwise satisfied this court that he or she (1) is financially unable to employ counsel and (2) does not wish to waive counsel, and because the interests of justice so require, the attorney whose name appears in Item 12 is appointed to represent this person in this case, or <input type="checkbox"/> Other (See Instructions) _____ Signature of Presiding Judicial Officer or By Order of the Court Date of Order 03/03/2006 Nunc Pro Tunc Date _____ Repayment or partial repayment ordered from the person represented for this service at time of appointment. <input type="checkbox"/> YES <input type="checkbox"/> NO
14. NAME AND MAILING ADDRESS OF LAW FIRM (only provide per instructions)	

CATEGORIES (Attach itemization of services with dates)		HOURS CLAIMED	TOTAL AMOUNT CLAIMED	MATH/TECH ADJUSTED HOURS	MATH/TECH ADJUSTED AMOUNT	ADDITIONAL REVIEW
In Court	15. a. Arraignment and/or Plea					
	b. Bail and Detention Hearings					
	c. Motion Hearings					
	d. Trial					
	e. Sentencing Hearings					
	f. Revocation Hearings					
	g. Appeals Court					
	h. Other (Specify on additional sheets)					
(Rate per hour = \$) TOTALS:						
Out of Court	16. a. Interviews and Conferences					
	b. Obtaining and reviewing records					
	c. Legal research and brief writing					
	d. Travel time					
	e. Investigative and Other work (Specify on additional sheets)					
(Rate per hour = \$) TOTALS:						
17.	Travel Expenses (lodging, parking, meals, mileage, etc.)					
18.	Other Expenses (other than expert, transcripts, etc.)					

19. CERTIFICATION OF ATTORNEY/PAYEE FOR THE PERIOD OF SERVICE FROM _____ TO _____	20. APPOINTMENT TERMINATION DATE IF OTHER THAN CASE COMPLETION	21. CASE DISPOSITION
22. CLAIM STATUS <input type="checkbox"/> Final Payment <input type="checkbox"/> Interim Payment Number _____ <input type="checkbox"/> Supplemental Payment Have you previously applied to the court for compensation and/or reimbursement for this case? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, were you paid? <input type="checkbox"/> YES <input type="checkbox"/> NO Other than from the court, have you, or to your knowledge has anyone else, received payment (compensation or anything of value) from any other source in connection with this representation? <input type="checkbox"/> YES <input type="checkbox"/> NO If yes, give details on additional sheets. I swear or affirm the truth or correctness of the above statements. Signature of Attorney: _____ Date: _____		

23. IN COURT COMP.	24. OUT OF COURT COMP.	25. TRAVEL EXPENSES	26. OTHER EXPENSES	27. TOTAL AMT. APPR / CERT
28. SIGNATURE OF THE PRESIDING JUDICIAL OFFICER			DATE	28a. JUDGE / MAG. JUDGE CODE
29. IN COURT COMP.	30. OUT OF COURT COMP.	31. TRAVEL EXPENSES	32. OTHER EXPENSES	33. TOTAL AMT. APPROVED
34. SIGNATURE OF CHIEF JUDGE, COURT OF APPEALS (OR DELEGATE) Payment approved in excess of the statutory threshold amount.			DATE	34a. JUDGE CODE

6

United States District Court
District of New Mexico

Document Verification

Case Title: USA v. Leyva, et al.
Case Number: 06m 00130

Document Information		
Number:	5	
Description:	ORDER by Magistrate Judge Robert Hayes Scott of temporary detention as to Irbin Luna Ortiz	
Size:	1 pages (21k)	
Date Received: 03/03/2006	Date Filed: 03/03/2006	Date Entered On Docket: null
Court Digital Signature		
56 71 11 ab 83 4b 2a ab 80 da 1a 66 7d e6 f5 96 b5 4d 7b 8f bd 9a 41 87 d0 3f d3 1d 13 38 7c 01 23 97 2d 73 4b f3 b5 d6 98 fb 38 62 99 6e 6e ee bd 94 a9 66 f8 52 80 fe 22 42 05 4c 70 0c 2d 70 b6 56 6f c7 ff ef 2a a2 46 a9 c7 79 96 a0 d3 d7 47 a7 21 e4 e5 af 15 af 71 c5 c6 d8 73 e7 ef 58 de bb f3 eb 59 9f 8b 42 0c 1a e3 d6 5d 54 6d 62 9e 4d a2 ff 78 b5 a6 81 fc 3b f8 15 7b dc b3 20		

Digital Signature: The Court's digital signature is a verifiable mathematical computation unique to this document and the Court's private encryption key. This signature assures that any change to the document can be detected.

Verification: This form is verification of the status of the document identified above as of March 03, 2006. If this form is attached to the document identified above, it serves as an endorsed copy of the document.

Note: Any date shown above is current as of the date of this verification. Users are urged to review the official court docket for a specific event to confirm information, such as entered on docket date for purposes of appeal.

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AO 470 (Rev. D/NM 1/95) Order of Temporary Detention

United States District Court
District of New Mexico

UNITED STATES OF AMERICA

V.

**ORDER OF TEMPORARY DETENTION
PENDING HEARING PURSUANT TO
BAIL REFORM ACT**

IRBIN LUNA ORTIZ

))))))))))

Defendant

Case Number: **06-M-130**

Upon motion of the UNITED STATES OF AMERICA, it is ORDERED that a
detention hearing is set for Monday, March 6, 2006 * at 9:00 a.m.
))))))))))

before Honorable W. Daniel Schneider
))))))))))

Name of Judicial Officer

Albuquerque, New Mexico

Location of Judicial Officer

Pending this hearing, the defendant shall be held in custody by (the United States marshal) ()
) and produced for the hearing.

Other Custodial Official

Date: **March 3, 2006**
))))))))))

Robert Hayes Scott
))))))))))
Judicial Officer
ROBERT H. SCOTT
U.S. Magistrate Judge

*If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. §3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. §3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.

United States District Court
District of New Mexico

Document Verification

Case Title: USA v. Leyva, et al.
Case Number: 06m 00130

Document Information		
Number:	4	
Description:	ORDER by Magistrate Judge Robert Hayes Scott appointing attorney Joseph Gandert to Defendant Benjamin Leyva	
Size:	1 pages (18k)	
Date Received: 03/03/2006	Date Filed: 03/03/2006	Date Entered On Docket: null
Court Digital Signature		
71 5a 66 81 34 d2 50 a8 4b f7 84 10 af 84 73 ba dc ee 9f e4 67 dd 5a ed d2 a4 0c 86 9f 22 63 1e 0b d6 8f 21 bb 9b df 9b 8d 68 7a 1b de b4 33 1e 24 90 21 1d de cc 88 6c 6a e7 f6 0d 02 4b 4b c0 31 15 1c 82 0d 00 c9 ab a7 0f b2 11 8d b6 69 48 4b 0d 07 df 95 76 9e 4b 75 ac 4c b9 2f f9 f8 e9 80 a6 24 43 5c ea 0c f7 fc 98 69 6b 99 4c b2 87 6a 97 b5 2b 98 4e 91 61 76 40 88 e1 43 0e d9 3a		

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

CRIM. NO.
MAGISTRATE NO. **06-M-130**

BENJAMEN LEYVA,

Defendant.

ORDER

The financial inability of the Defendant to retain counsel having been established by the Court, and the Defendant not having waived the appointment of counsel,

IT IS ORDERED that **JOSEPH GANDERT**, of the Federal Public Defender Organization, District of New Mexico, is hereby appointed to represent said Defendant in this cause of action until further order of the Court.

IT IS FURTHER ORDERED that the question of reimbursement, if any, which may be assessed against Defendant for the services of an attorney will be deferred.

Robert Hayes Scott
UNITED STATES MAGISTRATE JUDGE

NOTICE

A Detention/Rule 40/Identity hearing is set for **Monday, March 6, 2006 at 9:00 a.m.**, before the Honorable **W. Daniel Schneider**, United States Magistrate Judge, Albuquerque, New Mexico.

United States District Court
District of New Mexico

Document Verification

Case Title: USA v. Leyva, et al.
Case Number: 06m 00130

Document Information		
Number:	3	
Description:	ORDER by Magistrate Judge Robert Hayes Scott of temporary detention as to Benjamin Leyva	
Size:	1 pages (21k)	
Date Received: 03/03/2006	Date Filed: 03/03/2006	Date Entered On Docket: null
Court Digital Signature		
3b 37 0a ac a3 aa 4d c3 0d db 9b e6 14 ea c5 17 28 99 dd 87 22 be 84 b7 b4 54 3e b2 f9 49 3d 71 68 66 57 e1 97 5f 2d 61 f9 8e 4d 45 36 07 35 c6 3e 52 a0 81 6b c2 22 fa 4d 78 2c 5a 33 96 45 44 12 02 f4 a2 2d 19 40 d7 53 fd 11 c4 30 47 35 44 78 6f 03 d6 41 71 85 c3 ab 8f ee 4b f9 cd f7 a1 69 89 d4 8a b2 0a 24 45 d1 1a ef 2d 61 bf ba 88 26 5d ab 59 dc 15 b0 b1 d6 44 4d cc 5c 13 4a fb		

Digital Signature: The Court's digital signature is a verifiable mathematical computation unique to this document and the Court's private encryption key. This signature assures that any change to the document can be detected.

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United States District Court
District of New Mexico

UNITED STATES OF AMERICA

V.

**ORDER OF TEMPORARY DETENTION
PENDING HEARING PURSUANT TO
BAIL REFORM ACT**

BENJAMEN LEYVA

))))))))))

Defendant

Case Number: **06-M-130**

Upon motion of the UNITED STATES OF AMERICA, it is ORDERED that a
detention hearing is set for Monday, March 6, 2006 * at 9:00 a.m.
))))))))))

before Honorable W. Daniel Schneider Albuquerque, New Mexico
))))))))))

))))))))))

Pending this hearing, the defendant shall be held in custody by (the United States marshal) ()
) and produced for the hearing.

))))))))))
Other Custodial Official

Date: **March 3, 2006**
))))))))))

Robert Hayes Scott
))))))))))
Judicial Officer
ROBERT H. SCOTT
U.S. Magistrate Judge

*If not held immediately upon defendant's first appearance, the hearing may be continued for up to three days upon motion of the Government, or up to five days upon motion of the defendant. 18 U.S.C. §3142(f)(2).

A hearing is required whenever the conditions set forth in 18 U.S.C. §3142(f) are present. Subsection (1) sets forth the grounds that may be asserted only by the attorney for the Government; subsection (2) states that a hearing is mandated upon the motion of the attorney for the Government or upon the judicial officer's own motion if there is a serious risk that the defendant (a) will flee or (b) will obstruct or attempt to obstruct justice, or threaten, injure, or intimidate, or attempt to threaten, injure, or intimidate a prospective witness or juror.

United States District Court
District of New Mexico

Document Verification

Case Title: USA v. Leyva, et al.
Case Number: 06m 00130

Document Information		
Number:	2	
Description:	CLERK'S MINUTES of initial presentment as to Benjamin Leyva and Irbin Luna Ortiz before Magistrate Judge Robert H. Scott	
Size:	1 pages (6k)	
Date Received: 03/03/2006	Date Filed: 03/03/2006	Date Entered On Docket: null
Court Digital Signature		
3e 53 a4 99 62 71 22 c5 e3 fe 88 96 70 d4 a0 dc 0e 15 f6 99 38 a6 88 68 c5 88 86 47 d8 d2 32 e7 2a 26 7e e0 9f b1 05 2b be fd 15 8a 46 8c 5e 75 6a 39 46 a6 09 61 7f 01 14 d8 44 8d 5c 9c 37 1f 05 e1 3e 17 b7 c7 a8 14 17 75 aa 81 7b 8b 57 07 56 11 b3 91 47 6d 31 dd 3f e5 3b 96 e7 35 76 2c fa 47 ca 90 48 f6 a0 04 d7 ad 21 64 60 07 5b b8 c1 94 8c 19 eb 4b 7f f6 46 cf 7b 56 bb 32 17 8d		

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CLERK'S MINUTES OF HEARING HONDO COURTROOM

HEARINGS BEFORE

ROBERT H. SCOTT, U. S. Magistrate Judge

KIND OF HEARING INITIAL PRESENTMENT

DEFENDANTS:

**BENJAMEN LEYVA
IRBIN LUNA ORTIZ**

CASE NO. 06-M-130

DATE & TIME: March 3, 2006 @ 10:16 AM

NAMES AND TITLES OF OTHER PARTICIPANTS:

JAMES TIERNEY AUSA PRO SE Ret-CJA-AFPD

Gina Bauman PTS/PROB Ruben Bustos Interpreter

<u>TAPE NO.</u>	<u>SPEAKER</u>	<u>TAPE NO.</u>	<u>SPEAKER</u>
-----------------	----------------	-----------------	----------------

FTR/HONDO

@ 11:16 Court

HEARING RESULTS/FINDINGS:

- X** Defendant sworn
 - X** Defendant advised of rights.
 - X** Attorney appointment hearing held. Defendant wants/does not want court appointed attorney
 - X** Government moves to detain.
 - X** Defendant(s) remanded to custody
- Conditions of Release set at:
- X** Other: **FIRST APPEARANCE; Detention/Rule 40/Identity set for 3/6/06 at 9:00 am.**

FILED

UNITED STATES DISTRICT COURT
ALBUQUERQUE, NEW MEXICO

United States District Court

MAR - 3 2006

RECEIVED

MIDDLE

DISTRICT OF

ALABAMA

UNITED STATES OF AMERICA

v.

BENJAMIN LEYVA and
IRBIN LUNA ORTIZ

2006 MAR - 2 P 3:34
DEBRA P. HACKETT, CLERK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

MATTHEW J. DYKMAN

CRIMINAL COMPLAINT

CASE NUMBER: 2:06mj-24-DRB

06M130

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February 28, 2006, in Montgomery County, in the Middle District of Alabama defendant(s) did, (Track Statutory Language of Offense)

unlawfully seize, confine, inveigle, decoy, kidnap, abduct, and carry away and hold for ransom and reward a person, and did willfully transport that person in interstate and foreign commerce,

in violation of Title 18 United States Code, Section 1201(a)(1).

I further state that I am a(n) Special Agent with the Federal Bureau of Investigation and that this complaint is based on the following facts: Official Title

See attached affidavit

Continued on the attached sheet and made a part hereof: ☒ Yes ☐ No

Tyler McCondy
Signature of Complainant

Sworn to before me and subscribed in my presence,

March 2, 2006 at Montgomery, Alabama
Date City and State

DELORES R. BOYD, U.S. MAGISTRATE JUDGE
Name & Title of Judicial Officer

[Signature]
Signature of Judicial Officer

MIDDLE DISTRICT OF ALABAMA
MONTGOMERY, ALABAMA
AFFIDAVIT

I, the undersigned affiant, being duly sworn and deposed, state the following is true and correct to the best of my knowledge and belief. My name is Tyler McCurdy and I am a Special Agent with the Federal Bureau of Investigation ("FBI") and have been so employed for two years.

At 1:30 am on Wednesday, March 1, 2006, the FBI received notification of the extortionate kidnaping of F. P. L. that occurred in the evening of February 28, 2006. Agents from the FBI responded with the Montgomery Police Department.

The kidnaping was reported by Telesforo Perez Lopez (victim's brother) and his roommate, Alejandro Sales Hernandez. On or about February 18, 2006, Telesforo Lopez received a telephone call from F. P. L., who advised that he had arranged for transportation from Arizona to Montgomery, Alabama with a Latino male known as David. The fee was set at \$2,200. On the evening of February 28, 2006, Hernandez (acting on behalf of Telesforo Lopez) arranged to meet David at a gas station in Montgomery, AL for payment and delivery of the victim. At 7:30 pm, Hernandez went to the gas station and made contact with David. David, a Hispanic male, was sitting in the passenger side of a grey Ford Windstar minivan, Arizona license plate number C7500. The driver of the van was another Hispanic male; F. P. L. was in the back of the van. David then demanded \$3,000 from Hernandez (which was \$800 more than previously agreed upon for the victim's transportation). Because Hernandez did not have the additional money, David and the other Hispanic male left the gas station with the victim. In subsequent telephone calls to the victim's brother, David demanded \$6,000 to return the victim the next day. David then

1 stated that if he was not paid the \$6,000, he would kill the victim.

2
3 On March 1, 2006, at approximately 2:30 p.m., Telesforo Lopez received a
4 telephone call from cellular telephone number (602)400-7838. F. P. L. came on the phone
5 and spoke to his brother in his native indigenous dialect. According to Lopez, F. P. L. was
6 crying and scared. Lopez then spoke with one of the kidnappers, who advised that they had
7 not hurt his brother and were not going to hurt him. The individual advised that he would
8 detain F. P. L. in Phoenix until he received a payment via Western Union, after which he
9 would bring F. P. L. back for an additional sum to be paid upon delivery. The individual
10 would not give Telesforo Lopez an exact amount that he would be required to pay.


11
12 On March 1, 2006, at approximately 4:24 p.m., Telesforo Lopez received a
13 call from cellular telephone number (602) 348-0154. The individual spoke with Lopez and
14 advised him that he should send the money via Western Union to Mexico and they would
15 return his brother the next day. The above telephone conversations were recorded, but have
16 not yet been officially translated.

17
18 On March 1, 2006, at approximately 7:30 p.m., central time, FBI
19 Albuquerque and the New Mexico Highway Patrol conducted a vehicle stop on a grey Ford
20 minivan bearing Arizona plate C7500 on Interstate 40, 80 miles west of Albuquerque, New
21 Mexico. The vehicle was occupied by three Hispanic males. One of the individuals
22 identified himself as F. P. L. The other two individuals identified themselves as Benjamin
23 Leyva, date of birth January 22, 1977, 5'7", 150 pounds, black hair brown eyes and Irbin
24 Luna Ortiz, date of birth October 9, 1980, 5'8", 138 pounds, black hair, brown eyes. A
25 search of the vehicle was conducted for officer safety and the following items were visible
26 in plain view: a map, a large stack of U.S. currency, calling cards, two cellular telephones,
27 and a black bag containing duct tape and scissors. The cellular telephones were found to be
28 assigned to telephone numbers 602-400-7838 and 602-348-0154. Both Leyva and Ortiz

1 were found with large amounts of U.S. currency in their shoes.

2
3 Photographs of the individuals were shown to Hernandez and Telesforo
4 Lopez. Hernandez positively identified one of the Hispanic males as the person he met at
5 the gas station. Lopez identified a photograph of one of the other individuals as his brother,
6 F. P. L.

7
8 F. P. L. was found to be extremely dirty and un-bathed. F. P. L. appeared
9 fearful of the other two individuals. After being interviewed, F. P. L. advised that he
10 crossed illegally into the United States approximately 15 days ago. F. P. L. arranged with
11 Leyva and Ortiz to take him to Montgomery for \$2,200. Lopez and Leyva then took him
12 out of Montgomery and the State of Alabama against his will.

13
14
15 
16 SA Tyler McCurdy
17 Special Agent
18 Federal Bureau of Investigation
19 Montgomery, Alabama

20 Subscribed and sworn to before
21 me this 2nd day of March, 2006.

22 
23 DELORES R. BOYD
24 United States Magistrate Judge
25
26
27
28

United States District Court

MIDDLE DISTRICT OF ALABAMA

UNITED STATES OF AMERICA

WARRANT FOR ARREST

v.

IRBIN LUNA ORTIZ

CASE NUMBER: 2:06mj24-DRB

To: The United States Marshal
and any Authorized United States Officer

YOU ARE HEREBY COMMANDED to arrest IRBIN LUNA ORTIZ

Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition

charging him or her with (brief description of offense)

unlawfully seizing, confining, inveigling, decoying, kidnapping, abducting, and carrying
away and holding for ransom and reward a person, and did willfully transport that person in
interstate and foreign commerce,

in violation of Title 18, United States Code, Section(s) 1201(a)(1)

DELORES R. BOYD

Name of Issuing Officer

Signature of Issuing Officer

UNITED STATES MAGISTRATE JUDGE

Title of Issuing Officer

03/02/06 Montgomery, AL

Date and Location

(By) Deputy Clerk

Bail fixed at \$ _____ by _____

Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED	NAME AND TITLE OF ARRESTING OFFICER	SIGNATURE OF ARRESTING OFFICER
DATE OF ARREST		

AO 442 (Rev. 5/81) Warrant for Arrest

TOTAL P.07

United States District Court**MIDDLE****DISTRICT OF****ALABAMA****UNITED STATES OF AMERICA****WARRANT FOR ARREST**

v.

BENJAMIN LEYVACASE NUMBER: *2:06mj24-DRB*To: The United States Marshal
and any Authorized United States OfficerYOU ARE HEREBY COMMANDED to arrest BENJAMIN LEYVA

Name

and bring him or her forthwith to the nearest magistrate to answer a(n)

☐ Indictment ☐ Information ☒ Complaint ☐ Order of court ☐ Violation Notice ☐ Probation Violation Petition

charging him or her with (brief description of offense)

unlawfully seizing, confining, inveigling, decoying, kidnapping, abducting, and carrying
away and holding for ransom and reward a person, and did willfully transport that person in
interstate and foreign commerce,in violation of Title 18, United States Code, Section(s) 1201(a)(1)**DELORES R. BOYD**

Name of Issuing Officer

Signature of Issuing Officer

UNITED STATES MAGISTRATE JUDGE

Title of Issuing Officer

03/02/06 Montgomery, AL

Date and Location

(By) Deputy Clerk

Bail fixed at \$ _____

by _____

Name of Judicial Officer

RETURN

This warrant was received and executed with the arrest of the above-named defendant at _____

DATE RECEIVED

NAME AND TITLE OF ARRESTING OFFICER

SIGNATURE OF ARRESTING OFFICER

DATE OF ARREST

FINANCIAL AFFIDAVIT

CJA 23

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITHOUT PAYMENT OF FEE

REV. 1 90

IN UNITED STATES
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

FOR

AT

LOCATION NUMBER

VS.

PERSON REPRESENTED (Show your full name)

CHARGE/OFFENSE (describe if applicable & check box →)

☒ Felony
☐ Misdemeanor

- 1 ☒ Defendant—Adult
 2 ☐ Defendant—Juvenile
 3 ☐ Appellant
 4 ☐ Probation Violator
 5 ☐ Parole Violator
 6 ☐ Habeas Petitioner
 7 ☐ 2255 Petitioner
 8 ☐ Material Witness
 9 ☐ Other (Specify) _____

DCCKET NUMBERS

Magistrate

District Court

Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOY- MENT	Are you now employed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> Am Self Employed Name and address of employer: <u>Landscaper</u> IF YES, how much do you earn per month? \$ <u>6 PER HOUR</u> IF NO, give month and year of last employment _____ How much did you earn per month \$ _____
		If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, how much does your Spouse earn per month \$ <u>0</u> If a minor under age 21, what is your Parents or Guardian's approximate monthly income \$ _____
	OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY \$ <u>0</u> THE SOURCES _____
	CASH	Have you any cash on hand or money in savings or checking account <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No IF YES, state total amount \$ <u>300.00</u>
	PROP- ERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input type="checkbox"/> No IF YES, GIVE VALUE AND \$ DESCRIBE IT _____

OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED	Total No. of Dependents <u>1</u>	List persons you actually support and your relationship to them <u>wife</u>
	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	APARTMENT OR HOME: <u>traveling through</u>	Creditors	Total Debt Monthly Payt.

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

I certify the above to be correct.

WARNING: A FALSE OR DISHONEST ANSWER TO A QUESTION IN THIS AFFIDAVIT MAY BE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.

FINANCIAL AFFIDAVIT

CJA 23

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICE WITHOUT PAYMENT OF FEE

REV. 1 90

IN UNITED STATES
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

FOR

AT

LOCATION NUMBER

VS.

PERSON REPRESENTED (Show your full name)

CHARGE/OFFENSE (describe if applicable & check box →)

☐ Felony
☐ Misdemeanor

- 1 ☐ Defendant—Adult
 2 ☐ Defendant—Juvenile
 3 ☐ Appellant
 4 ☐ Probation Violator
 5 ☐ Parole Violator
 6 ☐ Habeas Petitioner
 7 ☐ 2255 Petitioner
 8 ☐ Material Witness
 9 ☐ Other (Specify) _____

DOCKET NUMBERS

Magistrate

District Court

Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Am Self Employed	
		Name and address of employer: <u>Landscape</u>	
		IF YES, how much do you earn per month? \$ <u>6.00 per hr</u>	IF NO, give month and year of last employment How much did you earn per month \$ _____
		If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	If a minor under age 21, what is your Parents or Guardian's approximate monthly income \$ _____
OTHER INCOME	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY THE SOURCES	RECEIVED	SOURCES
CASH	Have you any cash <u>on hand</u> or money in savings or checking account <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ <u>2,500</u>		
PROPERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		
	IF YES, GIVE VALUE AND \$ DESCRIBE IT	VALUE	DESCRIPTION
DEPENDENTS	MARITAL STATUS	Total No. of Dependents	List persons you actually support and your relationship to them
	<input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED		
DEBTS & MONTHLY BILLS	APARTMENT OR HOME:	Creditors	Total Debt Monthly Payt.
	(LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)		

SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

I certify the above to be correct.

WARNING: A FALSE OR DISHONEST ANSWER TO A QUESTION IN THIS AFFIDAVIT MAY BE PUNISHABLE BY FINE OR IMPRISONMENT, OR BOTH.